

To: Jaime Tompkins[jtompkins@blm.gov]
From: Fisher, Timothy
Sent: 2017-05-23T17:14:08-04:00
Importance: Normal
Subject: Fwd: Utah Examples
Received: 2017-05-23T17:14:17-04:00
Additional Information Requested on Bears Ears NM 5-19-17.docx
Executive Summary of Review of National Monuments under EO 13792.docx

The other examples
Timothy J Fisher, Program Lead

National Monuments and Conservation Areas
National Conservation Lands

20 M Street S.E. (wo-410)
Washington DC 20003

202-912-7172 Office
202-604-0706 Cell
202-245-0050 Fax

tjfisher@blm.gov

----- Forwarded message -----

From: Fisher, Timothy <tjfisher@blm.gov>
Date: Mon, May 22, 2017 at 5:45 PM
Subject: Utah Examples
To: Barbara Keleher <bkeleher@blm.gov>, "James (Lee) Kirk" <jkirk@blm.gov>, Alicia Styles <astyles@blm.gov>

Barb asked me to share the other two forms as examples from Utah - I hope this helps
Timothy J Fisher, Program Lead

National Monuments and Conservation Areas
National Conservation Lands

20 M Street S.E. (wo-410)
Washington DC 20003

202-912-7172 Office
202-604-0706 Cell
202-245-0050 Fax

tjfisher@blm.gov

**Additional Information Requested on Executive Order on the Review
of Designations Under the Antiquities Act**

BLM-Utah Responses to Additional Questions

- a) Any legislative language, including legislation in appropriations bills

The boundary of Bears Ears National Monument (BENM) is largely congruent with similar designations proposed in the Utah Public Lands Initiative (UPLI) (H.R. 5780).

- b) alternative options available for protection of resources applicable at each monument, such as Native American Graves Protection and Repatriation Act, Paleontological Resources Preservation Act, Archaeological Resources Protection Act, Historic Preservation Act and agency-specific laws and regulations.

The following options could provide some options to protect specific resources found in BENM. Protection would likely occur on a site-by-site or resource-by-resource basis and also would take a significant amount of time to accomplish under these various laws. These laws may not provide a mechanism to protect all cultural or tribal resources in BENM. For example, there are no statutory protections for cultural landscapes, but such resources could be protected under the Antiquities Act. See also the attached *Stegner Center NM vs NCA.pdf*.

National Historic Preservation Act, (NHPA)

Native American Graves Protection and Repatriation Act, (NAGPRA)

Paleontological Resources Preservation Act, (PRPA)

Archaeological Resources Protection Act, (ARPA)

American Indian Religious Freedom Act (AIRFA)

- c) Designated wilderness areas (name, acreage), Wilderness Study Areas (name if there is one, acreage, type), and/or areas managed to preserve wilderness or roadless characteristics that are not WSAs.

1. There is no BLM-administered designated wilderness within BENM. The US Forest Service manages the Dark Canyon Wilderness.
2. BLM manages 11 WSAs totaling 380,759 acres within BENM.
 - Bridger Jack Mesa – 6,333 acres
 - Butler Wash – 24,277 acres
 - Cheesebox Canyon – 14,831 acres
 - Dark Canyon – 67,825 acres
 - Fish Creek Canyon – 46,102 acres
 - Grand Gulch – 105,213 acres

- Indian Creek – 6,554 acres
- Mancos Mesa – 50,889 acres
- Mule Canyon – 6,171 acres
- Road Canyon – 52,404 acres
- South Needles – 160 acres
 - *WSA/ISA acres listed are the total BLM-administered surface acres from the Utah Statewide Wilderness Study Report, October 1991. GIS calculations would vary.*

3. There are ~48,800 acres within 4 areas (Dark Canyon, Mancos Mesa, Nokai Dome East and Grand Gulch) that are carried forward in the 2008 Monticello Approved RMP for protection of their wilderness characteristics. Mancos Mesa, Nokai Dome East and Grand Gulch are unavailable for oil and gas leasing. Dark Canyon is available subject to a no surface occupancy stipulation that cannot be waived, excepted or modified. All 48,400 acres acres are managed as avoidance areas for rights-of-way (ROW).

See: Bears Ears Existing Special Areas Calculations.pdf and MtFORMP Existing Special Designations BLM.pdf

d) Outstanding R.S. 2477 claims within a monument – type of road claimed and history

There are 1,703 roads claimed in San Juan county under R.S. 2477. This figure also includes lands outside of BENM managed by the Monticello Field Office. (*See: Statewide RS2477 Claims 102313.pdf and Utah RS2477Claims.pdf*).

Note: Between 2005 and 2012, the State of Utah and 22 counties filed 30 lawsuits seeking quiet title to over 12,000 claimed R.S. 2477 rights-of-way. The vast majority of these claims are on BLM-administered lands, but claims are pending on lands administered by the National Park Service and U.S. Forest Service. To date, only one case, involving three roads, has been settled (Juab 1). Under a case management order, six cases involving 1,500 claims are currently being litigated —Kane (1), Kane (2), (3), and (4), and Garfield (1) and (2); these cases do not include lands within BENM. The remaining cases have been stayed, although preservation depositions have been allowed to continue. BLM-Utah maintains thousands of records related to R.S. 2477 claims and active or pending litigation, but some of the information is attorney-client privileged.

e) Maps –

BENM provided several maps in the initial data response (*BENM WO 410 Checklist and Supporting Docs subfolder: BENM GeoPDF map.pdf and BENM webmap.pdf*). There are also numerous maps contained within the Monticello Management Plan. We are attaching several maps of cultural and paleontological resources, which may also assist WO 410 in responding to other questions within this document. (1. *ArchaeologicalSurveysMap UDSH.pdf*; 2. *ArchySiteDensityMap UDSH.pdf*; 3. *DRAFT*

*Monticello FO Cultural Predictive Model Map BLM.pdf; 4.
BearsEarsSites Comparison UDSH.pdf and 5.
BearsEars BriefingMap 031417 Paleo BLM.pdf)*

- f) Cultural or historical resources, particularly Tribal, located near a monument but not within the boundary that might benefit from inclusion in the monument

Please refer to the *2.g.Bears-Ears-Inter-Tribal-Coalition-Proposal.pdf* in Drive, which describes the Coalitions' proposed boundaries and significance of areas in San Juan county. The Executive Summary for the Bears Ears Inter-Tribal Coalition (*ExecutiveSummaryBearsEarsProposal(BEITwebsite).pdf*) is attached and is significantly larger than the area designated as BENM. The attached *BENM Boundary Comparison Map Web.pdf* shows the extent of the Inter-tribal Coalition proposal as well as the Proclamation boundary (and the Utah Public Land Initiative designations). See also *TribalLettersPostDesignation.pdf*.

- g) Other – general questions or comments

1. **Discuss the full range of Proclamation objects.** The initial DOI data call focuses almost exclusively on cultural objects, but the Proclamation identifies many objects of antiquity or historical or scientific interest to be protected, such as paleontological resources.
2. **Minor boundary modifications:** There are a few locations where a very small boundary modification would improve manageability of resources without causing any impacts to the objects identified in the Proclamation. For example, a portion of the Bluff Airport is included within the BENM. BLM-Utah can provide additional information on request.

Executive Summary of Review of National Monuments under EO 13792 (April 26, 2017)

Key Information about Bears Ears National Monument

Bears Ears National Monument (BENM) was designated on December 28, 2016. BENM consists of 1,351,849 acres in San Juan County, Utah, jointly managed by the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) (1.063 million acres managed by the BLM; 290,000 acres managed by the USFS). Prior to designation, the area was managed by the BLM and USFS and continues to be following designation. Located in southeast Utah's canyon country, BENM offers unparalleled recreation opportunities. The area is one of the most significant cultural landscapes in the United States, with thousands of archaeological sites and important areas of spiritual significance to American Indian tribes. Overall, multiple use activities are allowed in BENM that are compatible with the protection of resources and objects identified in the Presidential Proclamation. Multiple use activities are subject to decisions made in current and future BLM resource management planning efforts which include public participation. National monuments and other conservation areas managed by the BLM continue to allow for multiple uses according to the Federal Land Policy and Management Act (depending on proclamation language).

Summary of Public Engagement Prior to Designation

The idea of a national monument in this area is not a new one: calls for protection of the Bears Ears area began more than 80 years ago. Six years ago, several tribes began working on a specific proposal to protect this area under the Antiquities Act. Last year, at the invitation of the tribes, senior representatives from DOI and the USFS attended an Inter-Tribal Council meeting in the field at the Bears Ears buttes to engage in government-to-government dialogue. In July 2016, Secretary Jewell was joined at a public meeting in Bluff, Utah, by Department of Agriculture Under Secretary for Natural Resources and Environment Robert Bonnie, Principal Deputy Assistant Secretary for Indian Affairs Larry Roberts, BLM Director Neil Kornze, National Park Service Director Jon Jarvis, and staff from the offices of Governor Herbert, Congressman Chaffetz, Congressman Bishop, Senator Lee, and Senator Hatch. At the meeting, an overflow crowd of over 1,500 citizens attended. The majority of speakers encouraged permanent protection for this iconic landscape, as did the majority of almost 600 written comments. On that trip, senior officials also met with a number of local stakeholders to discuss protection of the area, including a meeting with the San Juan County Commission that was well-attended by local citizens. The Governor, members of Utah's congressional delegation, and the San Juan County Commission support protection for the area, but unanimously opposed monument designation.

The boundary of BENM is largely congruent with similar designations proposed in the Utah Public Lands Initiative (UPLI) (H.R. 5780), which was introduced by Representatives Bishop and Chaffetz after extensive consultations with stakeholders. Their UPLI, which Governor Herbert also supported, proposed to conserve roughly the same area as the BENM by designating two National Conservation Areas (Indian Creek and Bears Ears) as well as the Mancos Mesa Wilderness. The UPLI also proposed to designate most of the current Wilderness Study Areas as wilderness.

There is overwhelming support from tribal governments for protecting this important cultural landscape. A coalition of five federally recognized tribes – Hopi, Navajo, Ute Mountain Ute, Zuni, and Ute Indian Tribe of the Uinta Ouray – came together to develop a tribal proposal for protecting 1.9 million acres of public land in the Bears Ears area, which is the ancestral grounds of numerous tribes in the region and remains an important area for traditional and ceremonial use. Over two dozen other tribes endorsed their tribal proposal, as well as the National Congress of American Indians. All seven tribes located in Utah and the Utah Tribal Leaders Association endorsed the tribal proposal. The Navajo Nation, which has seven chapter houses located in Utah, has supported the tribal proposal at its highest levels, including support from its President and the Navajo Nation Council. Six of their seven chapter houses in Utah support the tribal proposal, and the one that has rescinded its support has instead advocated for protecting the area through the Utah Public Lands Initiative (UPLI). To reflect tribal expertise and traditional and historical knowledge, the BENM Presidential Proclamation established a Bears Ears Commission, which enable tribes to share information and advice with federal land managers.

Summary of National Monument Activities since Designation

The BLM-Utah Monticello Field Office has identified a list of priority projects needed to improve visitor safety, protect resources, and enhance visitor experiences and have made significant progress in planning and implementation of these projects. The Field Office also manages existing multiple uses that are compatible with the BENM Proclamation. The BLM-Utah has also developed informational materials including maps, brochures, and website materials. Design work for portal signs is also nearly complete. The Bears Ears Tribal Commission has been established, with representatives identified for each of the tribes noted in the proclamation. The BLM has participated in two in-person meetings with the Commission and have started to identify opportunities to work together. The BLM has coordinated with the USFS on day-to-day activities and initiated discussions regarding short- and long-term management needs. A coordination call is held between the agencies on a weekly basis to discuss ongoing action items, including responses to public inquiries. The BLM prepared a Monument Advisory Committee (MAC) Charter (signed by Secretary Jewell) and a Federal Register Notice calling for nominations to the MAC (not yet published). There has been no change in day-to-day management since designation of BENM and no change in grazing or the number of permitted AUMs.

Summary of Activities in Area for 5 years Preceding Pre-Designation

These lands have been managed according to the 2008 Monticello Resource Management Plan, which includes multiple-use management objectives. Approximately 727,000 acres (68 percent) of the BLM lands that are within the monument were managed with some level of a protective designation either under the existing land use plan as Areas of Critical Environmental Concern, natural areas, and Special Recreation Management Areas; or as designated Wilderness Study Areas. There has been no change in day-to-day management since designation of BENM.

Summary of Available Economic Information since Designation

A cursory review of mineral potential is included in the Drive folder (4.c.d.Cursory Review of the Mineral Potential Occurrence within the Bears Ears NM BLM). Unlike many of the other monuments included in the Executive Order review, economic information has not been developed for BENM because of its recent designation.

Summary of Any Boundary Adjustments since Designation

Not applicable. The proclamation establishing the BENM directed the Secretary to explore entering into a Memorandum of Understanding (MOU) with the State of Utah for the exchange of approximately

109,000 acres of state inholdings within BENM for BLM lands outside the monument. Further, the Secretary was ordered to report to the President by Jan. 19, 2017, regarding the potential for the exchange. In response, the BLM drafted an MOU for review by the Utah State Institutional Trust Lands Administration (SITLA). SITLA has temporarily declined to participate in review of the MOU pending the outcome of the monument review under the executive order. The BLM anticipates that at the conclusion of the review process, SITLA will be receptive to dialog regarding exchange opportunities.